

# State of Colorado



John W. Hickenlooper  
*Governor*

Neil Peck  
*Board Chair*

Dana Shea-Reid  
*Board Director*

**State Personnel Board**  
1525 Sherman Street, 4<sup>th</sup> Floor  
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## **AGENDA PUBLIC BOARD MEETING July 19, 2016**

**A public meeting of the Colorado State Personnel Board will be held on Tuesday, July 19, 2016  
1525 Sherman Street, 1st Floor Conference Room 103, Denver, Colorado 80203. The public meeting  
will commence at 9:00 a.m.**

Reasonable accommodation will be provided **upon request** for persons with disabilities. If you are a person with a disability who requires an accommodation to participate in this meeting, please notify Board staff at 303-866-3300 by July 15, 2016.

### **CALL TO ORDER**

- Attendance.
- Disclosure of any potential conflicts of interest with regard to present Board business and notice of recusal, if applicable.

### **ELECTION OF BOARD OFFICERS FY2016-17**

#### **I. REPORT OF DEPARTMENT OF PERSONNEL AND ADMINISTRATION [DPA] AND REPORT OF THE DIVISION OF HUMAN RESOURCES [DHR]**

#### **II. PENDING MATTERS**

#### **III. REVIEW OF INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES ON APPEAL TO THE STATE PERSONNEL BOARD**

There are no cases on appeal to the Board this month.

#### **IV. REVIEW OF PRELIMINARY RECOMMENDATIONS OF THE ADMINISTRATIVE LAW JUDGES TO GRANT OR DENY PETITIONS FOR HEARING**

There are no Preliminary Recommendations for Board review this month.

**V. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES**

**A. Lynn A. Michel v. Department of Transportation, State Personnel Board case number 2015G091(c).**

Complainant, a certified employee, seeks review of Respondent's decision not to select her for the position of Office Manager I, arguing that Complainant was subjected to disparate treatment on the basis of age in violation of the Colorado Anti-Discrimination Act (CADA), §24-34-401, *et seq.*, C.R.S. Complainant seeks all damages to make her whole, including but not limited to back pay from the date of the final agency decision to the date of hiring for the promotional position of Office Manager I on January 17, 2015; front pay, with yearly pay increases, in the amount of compensation Complainant would have earned had she been promoted to the age of 65; compensatory damages, including but not limited to back benefits, including lost PERA or service credits as a result of not being promoted, and all expense related to seeking other employment. Complainant also seeks an award of attorney fees and costs. Respondent seeks affirmance of its decision not to select Complainant for the Office Manager position, and denial of all relief sought by Complainant.

On June 24, 2016, The Administrative Law Judge reversed the Respondent's decision not to select Complainant for the Office Manager I position. To make Complainant whole for the age discrimination she has suffered, Respondent was ordered to provide Complainant a lump sum payment equal to the 12.5% raise she was denied, as well as any additional PERA contributions that would have resulted from this pay increase with statutory interest. The payment should be calculated from the date of hire of Ms. Berner as Office Manager I through the date of this initial decision, and shall be reduced by any salary increase Complainant received in her current or former position since January 2015. Attorney fees and costs are not awarded.

**B. Mathew Mark Stiles v. Department of Corrections, Denver Reception & Diagnostic Center, State Personnel Board case number 2016B034.**

Complainant, who was a certified state employee, appeals his termination of employment by the DCC. Complainant alleges that, although he did commit the act for which he was disciplined, the decision to terminate his employment was arbitrary, capricious or contrary to rule or law, and that his termination was not within the range of reasonable alternatives available to the appointing authority. Complainant seeks reinstatement, as well as back pay and benefits. Respondent requests that its decision be affirmed and that Complainant's appeal be dismissed with prejudice. For the reasons set forth below, Respondent's decision to terminate Complainant's employment is modified.

On June 17, 2016, the Administrative Law Judge modified the Respondent's action, and ordered the termination be rescinded and replaced with a ten percent (10%) reduction in pay for six (6) months, from November 2, 2015 to May 2, 2016. Complainant is entitled to full back pay and benefits including but not limited to PERA contributions and service credit from November 2, 2015, to the date of reinstatement, offset by any substitute earnings or unemployment compensation received by Complainant.

**VI. REVIEW OF THE MINUTES FROM THE JUNE 21, 2016 PUBLIC MEETING OF THE STATE PERSONNEL BOARD**

**VII. ACKNOWLEDGMENTS**

**DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS JUNE 21, 2016 PUBLIC MEETING:**

A. James Jimerson v. Department of Corrections, State Personnel Board case number 2015B003.

The Board voted to adopt the Findings of Fact and Conclusions of Law in the Initial Decision of the Administrative Law Judge.

B. Andrea Mora v. Department of Human Service, Office of Administrative Solutions, Division of Employment Affairs, State Personnel Board case number 2016G047.

The Board voted to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing.

C. John Kovacs v. Department of Personnel and Administration, State Personnel Board case number 2016S015.

The Board voted to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing.

**VIII. ADMINISTRATIVE MATTERS & COMMENTS**

A. ADMINISTRATIVE MATTERS  
• Cases on Appeal to Appellate Courts

B. OTHER BOARD BUSINESS

(Director's Report)

• Director Shea-Reid is working with State CHRO Kim Burgess and DHR staff to update the consolidated appeal form and the instruction packet that is provided in order to make the form easier to complete, in particular for self represented individuals.

C. GENERAL COMMENTS FROM ATTORNEYS, EMPLOYEE ORGANIZATIONS, PERSONNEL ADMINISTRATORS, AND THE PUBLIC

**IX. PROPOSED LEGISLATION AND/OR RULEMAKING**

**X. EXECUTIVE SESSION**

**ADJOURN:**

**REGULARLY SCHEDULED BOARD MEETINGS - 9:00 a.m.**

<b>January 19, 2016</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 103 Denver, CO 80203</b>
<b>February 16, 2016</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 103 Denver, CO 80203</b>
<b>March 15, 2016</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 103 Denver, CO 80203</b>
<b>April 19, 2016</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 103 Denver, CO 80203</b>
<b>May 17, 2016</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 103 Denver, CO 80203</b>
<b>June 21, 2016</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 103 Denver, CO 80203</b>
<b>July 19, 2016</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 103 Denver, CO 80203</b>
<b>August 16, 2016</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 103 Denver, CO 80203</b>
<b>September 20, 2016</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 103 Denver, CO 80203</b>
<b>October 18, 2016</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 103 Denver, CO 80203</b>
<b>November 15, 2016</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 103 Denver, CO 80203</b>
<b>December 20, 2016</b>	<b>Colorado State Personnel Board 1525 Sherman Street, 1<sup>st</sup> Floor Conference Room 103 Denver, CO 80203</b>